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LEEANN FLYNN HALL
CLERK OF COURT

UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT
WASHINGTON, D.C.

IN RE: DIRECTIVES PURSUANT TO
SECTION 105B OF THE FOREIGN
INTELLIGENCE SURVEILLANCE ACT

Docket No. 105B(g) 07-01

**JOINT MOTION TO PROVIDE YAHOO WITH LIMITED
PRE-PUBLICATION ACCESS TO COURT DOCUMENTS**

1. In its July 15, 2013 Order, this Court directed the Government to “conduct a declassification review” of the Court’s April 25, 2008 Memorandum Opinion in this case and the “legal briefs submitted by the parties to this Court in this matter.” Order at 3. That classification review is ongoing, and the Government has provided proposed redacted versions of documents for potential release by the Court and is reviewing other documents to release as much information as possible consistent with national security. The Government expects that a significant amount of information in the documents will be declassified and released.

2. On September 30, 2013, Yahoo filed a motion under FISC Rule 62 requesting access to some of the documents the Government provided to this Court for review before they are made publicly available.

3. On October 4, 2013, the Government filed a Motion for Stay of Proceedings Due to Lapse of Appropriations and on October 11, 2013, this Court granted the motion and stated that the Government shall notify the Court within five days after Congress has appropriated funds for the Department of Justice. The Government hereby notifies the Court that funding was restored for the Department of Justice on October 17, 2013. The Government estimates that it

will be able to provide a further status report on its declassification review on November 12, 2013.

4. The parties have engaged in negotiations regarding Yahoo's proposed access to documents the Government has provided to the Court.

5. The Government partially opposes and partially concurs in Yahoo's request. The Government's position is that Yahoo may not view the documents until after the declassification process is complete, but may be allowed time to review the documents prior to public release. The Government has informed Yahoo that the declassification process will be complete after the Court finishes its initial review of the documents and the Government then provides the Court with formally declassified versions of the documents.

6. The Government does not oppose allowing Yahoo to view the documents prior to publication by this Court after the declassification process is complete and redactions have been applied. That review would allow Yahoo the opportunity to bring any issues regarding the materials to be released to the Court's attention.

7. The parties thus respectfully request that the Court enter an order:

- a. Allowing Yahoo's counsel to access the documents upon the Court's receipt of formally declassified versions from the Government.
- b. Providing Yahoo seven days to file any motions regarding the public release of the documents.
- c. Providing the Government seven days to respond to Yahoo's motion, if any, and Yahoo three business days to file a reply.

October 21, 2013

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IN RE: DIRECTIVES PURSUANT TO
SECTION 105B OF THE FOREIGN
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Docket No. 105B(g) 07-01

**[PROPOSED] ORDER GRANTING JOINT MOTION TO PROVIDE YAHOO WITH
LIMITED PRE-PUBLICATION ACCESS TO COURT DOCUMENTS**

On October 21, 2013, the parties in the above-captioned case filed a joint motion to allow Yahoo pre-publication access to court documents the Government has declassified and submitted to the Court for review. Accordingly, it is hereby ORDERED that:

Yahoo's counsel may review the redacted, formally declassified versions of documents the Government originally provided to this Court on September 12th and 27th, 2013 upon receipt of notice from the Government that it has provided the Court with formally declassified versions of those documents.

Yahoo must file any motions regarding the release of those documents within seven days of receiving notice from the Government.

The Government shall have seven days to respond to Yahoo's motion, if any.

Yahoo shall then have three business days to file a reply, if any.

SO ORDERED, this ____ day of October, 2013.